

Appeals court rules against Rossers in property dispute

by SUSAN RIEMER, Vashon-Maury Island Beachcomber Reporter

posted Sep 24, 2013 at 5:08 PM

The Washington Court of Appeals ruled last week in favor of the Vashon Park District in its long running property dispute with islanders Gay and Margaret Rosser.

The appeals court upheld a 2012 decision by King County Superior Court judge Laura Gene Middaugh, who determined that the Rossers do not have evidence to support their claims of ownership concerning two contested pieces of property near the VES Fields.

Since 2007, Gay Rosser, Margaret Rosser's daughter, has been in conflict with the Vashon Park District, which leases 30 acres of land at the VES Fields site from the Vashon Island School District. Rosser, whose family owns a home next to the fields, has maintained that her family owns the stretch of road on the south side of the fields. For decades, they have used the road as the driveway to their home and say that the school district owns only an easement on it

Additionally, she has been steadfast in maintaining that the Rosser family owns an easement on a small swath of property on the eastern edge of the fields, which abut the western edge of their land.

Now, however, two courts have said that it is the school district that owns the road in question and the Rossers have an easement on it. And both courts have found that the Rossers do not have an easement on the eastern portion of the fields.

Gay Rosser voiced her disappointment about the ruling last week. In a voice mail to The Beachcomber, she indicated she planned to take the case to the state Supreme Court.

"We are taking this to a higher court because someday someone is going to look at the facts and evidence and realize the truth," she said in the message. Rosser declined to elaborate further for the record.

Vashon Park District commissioner David Hackett, an attorney, said he expected the recent decision and added that the conflict and resulting legal action have been costly for the district. So far the park district has paid more than \$65,000 to resolve the dispute, according to park district General Manager Elaine Ott.

Hackett also noted the district would have preferred to settle the conflict out of court and made efforts to do so as late as May.

“I find it a shame they continue to waste the public’s time and money,” he said.

At the root of the dispute, the Rossers say, is an arrangement that they believe was part of an agreement between Leon Rosser, Gay’s father, and then-school superintendent Hal Barton in 1947. The purported agreement was that the Rossers would give an easement on the road to the school district to access the fields, and in return, they say, the school district gave the Rossers an easement along the eastern edge of the property.

But school district officials have said they could not find documentation in support of the Rossers’ claim and — to the contrary — found a 1957 document that appears to counter it. A title search and a survey also showed that the driveway belongs to the school district, with an easement that allows the Rossers to use it.

After mediation attempts failed and park district officials said Rosser tried to obstruct construction work by blocking access to the work site, The Vashon Park District filed a suit against Gay Rosser in 2011.

Last week, the appeals court was unequivocal in the opinion it issued and found fault with some of what Rosser presented as evidence, saying it was not relevant to the case. According to the court’s opinion, she challenged the validity of the park district’s lease of the fields property, the legality of the athletic fields project and the park district’s compliance with permitting requirements and regulations. She also sought sanctions against the park district’s attorney, but did not identify any sanctionable conduct in the trial court or on the appeal, the document says.

“Because the evidence did not give rise to any questions of fact regarding the property interests at issue and the ... arguments Rosser raises have no merit, we affirm the trial court’s order,” the Sept. 16 opinion states.

A letter to both parties that accompanied the opinion stated that Gay Rosser may file a motion for reconsideration within 20 days or petition the state Supreme Court within 30 days for a review.

SUSAN RIEMER, *Vashon-Maury Island Beachcomber Reporter*

sriemer@vashonbeachcomber.com or 206-463-9195